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Before the
Federal Communications Commission
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Bell Atlantic Telephone Companies' New Expanded Interconnection Tariff	)	CC Docket No. 96-165
	)	

REBUTTAL CASE OF BELL ATLANTIC

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REBUTTAL CASE OF BELL ATLANTIC[1]

I. Introduction and Summary

This investigation focuses on Bell Atlantic's tariff that *lowered* key virtual collocation rates and reintroduced physical collocation at comparable prices, even though Bell Atlantic had no obligation to reduce its rates. WorldCom[2] and MCI[3] fail to acknowledge this benefit; nor do they express any major concerns with the tariff. Instead, they focus their comments on a series of narrow, detailed claims, plus some unspecified general objections.[4] As

[1] The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

[2] Joint Opposition of WorldCom, Inc., KMC Telecom, Inc., and RCN Telecom Services, Inc. to Direct Case ("WorldCom").

[3] MCI Opposition to Direct Case ("MCI").

[4] WorldCom, throughout its pleading, makes vague references to "additional flaws" in the tariff or Direct Case. Without any more specificity, the Commission must ignore these nebulous references and address only the specific allegations.

shown below, none of these claims has any merit. Bell Atlantic's Direct Case[5] has fully justified the reduced collocation rates and the terms and conditions of service. The Commission should complete its investigation of Bell Atlantic's collocation tariffs by denying the two oppositions and approving the reduced collocation rates as filed.[6]

II. Central Office Occupancy Rates are Fully Justified.

WorldCom asserts that Bell Atlantic may be double- or triple-counting certain central office improvements, such as HVAC Filtration, flooring, grounding, electrical service, and security.[7] It claims that these costs are included in the room construction fee, in the recurring charge, or rent, for central office features, and in the land and building loading factors. Each of these items, however, recovers different costs:

a. The room construction fee recovers the one-time cost of installing the improvements that are needed to accommodate the specific collocator's needs.[8] It also includes a proportionate share of preparing the central office space to accept collocation (e.g., installing separate entrances, room construction, and other costs that would not be incurred but for collocation).

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[5] Bell Atlantic's Direct Case ("Direct Case").

[6] The Commission should not tolerate WorldCom's claim that it "reserve[s] the right to raise additional issues in the future" regarding the tariff. WorldCom at 3, n.2. WorldCom has not asked for additional time to respond to Bell Atlantic's Direct Case and should be estopped from raising issues that it could have addressed at the proper time but failed to do so.

[7] WorldCom at 4-6.

[8] The first collocator pays the full amount of these costs. Subsequent collocators reimburse earlier ones for their proportionate shares of the costs.

b. On the other hand, the recurring floor space, or rent, charge includes none of these costs. Instead, it reflects the monthly rate for comparable office space in the area, plus the cost of improvements that are unique to central office space and which are not needed in normal business space.[9] This charge is assessed only on space *inside* the particular collocator's cage.

c. Finally, the land and building loading factors are applied only to charges for equipment that is located *outside* the collocation space, but that nonetheless is used by the collocator, and are not used in calculating central office occupancy fees. These factors are designed to reimburse Bell Atlantic for the building space that this equipment occupies.

Contrary to WorldCom's claims, moreover, the aggregate of these charges actually *under-recovers* the cost of the space that Bell Atlantic must devote to collocation. The reason for this is that Bell Atlantic must set aside a common area surrounding the cages in each central office -- in addition to the space within the collocation cage. This space can range from 100 to 400 square feet per central office collocation space, plus corridors to provide secure access to the dedicated space, and is unusable for any other purpose. Collocators are not charged for this common area.

WorldCom also contends that Bell Atlantic used too high a cost of capital in calculating recurring occupancy rental rates and that this inflates those rates.[10] As shown in Bell Atlantic's Direct Case,[11] and as WorldCom acknowledges, however, the cost of capital rate was

[9] These include such items as increased floor loading capacity; greater ceiling height; augmented heating, ventilation, and air conditioning ("HVAC"); sophisticated hazard alarm systems; non-static flooring; grounding; augmented electrical service; and a 24 hour security system with a computerized card entry system.

[10] WorldCom at 6.

[11] Direct Case, Att. A at 13.

current at the time the floor space rental studies were conducted in 1993.[12] The reason these particular studies were not updated when the other cost studies were performed in 1996 is that overall office rental rates in Bell Atlantic's local exchange serving area had remained relatively static since the 1993 study was performed. Bell Atlantic determined that it would not be cost-effective to conduct a new study to incorporate the relatively modest rental increases into the new tariff. These modest increases would, however, have more than offset the one per cent decrease in the forward-looking cost of capital between 1993 and 1996.

III. EDSX Rates Are Properly Allocated.

WorldCom questions the allocation of the costs of the Electronic Digital Cross Connect Systems ("EDSXs").[13] In particular, WorldCom first claims that 22% of the EDSX investment is allocated to collocation and then asserts that this figure is too high considering the size of the remaining customer base that the EDSX equipment supports.[14] This calculation is in error.

The charts contained in the Tariff Review Plan ("TRP") that WorldCom relied upon[15] do not attempt to allocate a portion of the EDSX, as WorldCom claims. Instead, they

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[12] The forward-looking cost of capital used in the 1993 studies was 12.90%, while that used in 1996 was 11.90%.

[13] WorldCom at 7-9.

[14] ***Id.*** at 8.

[15] The charts in question are entitled "III. Physical Collocation Investment, DS1 Termination Equipment Function."

show the derivation of the *per-port* EDSX investment.[16] Each EDSX port is dedicated to a single customer, so a collocator would pay the same amount as any customer, but only when it takes an EDSX port. The overall relative use of EDSXs by collocators and non-collocators is not used to determine the per-port charge shown in the cited TRP material.[17]

IV. Overhead Loading Calculations Meet Commission Requirements.

According to WorldCom, the overhead loading factors that are used for comparable access services, and which the Commission has required to be applied to collocation services,[18] are excessive. The comparable access rates, however, are under price caps and are, therefore, divorced from costs. In order to meet the Commission's guidelines for collocation overhead loadings, Bell Atlantic compared the price cap rates for comparable access services to

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[16] This investment, $388.23, is shown in Column O of the TRP chart.

[17] WorldCom also questions why Bell Atlantic used a "circuitous methodology" to calculate the portion of the extended EDSX bay that would be charged to a given collocator. WorldCom at 8, n.4. This methodology was used to determine the portion of the bay that corresponds to the per-port charge, and Bell Atlantic used such a calculation in order to be certain that individual collocators were properly charged for this item. WorldCom also questions the fill factors used in calculating the cost of a repeater bay. ***Id.*** Fill factors were not used in this calculation, because the actual capacity of the bay was not known at the time, and, unlike EDSX bays, those bays are dedicated to collocators. Instead, the average collocation DS3 circuit demand per central office (6) was multiplied by the average number of collocators per office (1.67) to produce a surrogate for the fill ratio (10.02). This number was divided into the overall repeater bay investment to produce the investment allocation.

[18] ***See, e.g.***, Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, ***Memorandum Opinion and Order***, 9 FCC Rcd 5154 at ¶ 128 (1994); ***Report and Order***, 10 FCC Rcd 6375 at ¶ 5 (1995) ("LECs may not recover a greater share of overhead costs in their rates for virtual collocation services than they recover in rates for 'comparable services,' absent justification").

forward-looking costs in order to derive the collocation overhead loading factors. WorldCom does not argue that Bell Atlantic calculated these loadings incorrectly, but, instead, it launches a collateral attack on Bell Atlantic's access rates by claiming that the loadings for *those* services are too high. But this has nothing to do with whether Bell Atlantic correctly followed the Commission's requirement for calculating overhead loadings for its collocation rates, and WorldCom's argument must be dismissed.

Equally misplaced is MCI's claim that Bell Atlantic failed to explain differences between the access overheads and those used in collocation.[19] With one small exception, the overhead loadings used in collocation are exactly the same as those calculated for comparable access services, and in that one exception Bell Atlantic used a lower loading factor in order to avoid a collocation rate increase.[20] No further explanation could be provided, because the desire to avoid a rate increase is the sole reason for the difference.

V. Labor Costs Are Properly Calculated.

WorldCom claims that Bell Atlantic's tariff over-recovers labor costs from collocators.[21] First, it asserts that the portion of the labor costs for the Collocation Product

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[19] MCI at 5-6.

[20] ***See*** Direct Case, Att. A at 19-20. In addition, the language in the Direct Case that MCI claims is inadequate to explain the alleged differences in overhead loadings does not even address such loadings. ***See*** MCI at 5, citing Direct Case, App. A at 20. Instead, it helps explain the difference in methodologies used to develop the direct costs of access services and collocation services, and no party has questioned those differences.

[21] WorldCom at 9-11.

Managers that is termed "Other Related Costs - Certain Voucherable Expenses" includes common costs, but that Bell Atlantic does not explain how it arrived at the percentage of common costs that it assigns to collocators.[22] These costs, however, are all directly-assigned, as shown in the Direct Case. The voucherable expenses included in that item include transportation, meals, lodging and other travel-related expenses; relocation expenses for transferred employees; and employee-related tuition for training. The General and Administrative Expenses included in the labor expenses consist of an overhead factor to cover overall corporate expenses that are allocated to each employee.[23]

Second, WorldCom cites the Direct Case as showing an increase in the fully loaded labor rate for those managers from $80.84 in 1995 to $87.36 in 1996 and asks that the increase be explained.[24] These figures reflected the average increase in labor costs throughout Bell Atlantic during that year. The amount of increase was unusually high in that particular year, because of changes in the required accounting for Other Post-Retirement Benefits and other accounting changes over which Bell Atlantic had no control. It does not reflect a significant salary increase.

Finally, WorldCom contends that the number of hours assigned to planning and designing a collocation office is excessive and claims that the total would use more than half of the collocation coordinator's time, leaving little time for other functions.[25] WorldCom ignores

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[22] ***Id.*** at 9-10, citing Direct Case, Att. A at 10.

[23] Among the many corporate expenses covered by this factor are reference libraries, food services, security, telecommunications services, and mail.

[24] WorldCom at 10, citing Direct Case, App. A at 10.

[25] ***Id.*** at 10-11.

two factors. First, every collocation office is different, because none had been built to accommodate collocation, and each has a different architecture and configuration. Therefore, planning and design for each office is a difficult, unique, labor-intensive process. Second, Bell Atlantic does not employ a single collocation coordinator, as WorldCom assumes. As a result of the rapid increase in collocation requests, Bell Atlantic has been forced to increase sharply the size of its collocation staff. As WorldCom's affiliate MFS certainly is aware, Bell Atlantic currently has eleven local collocation coordinators, three area collocation managers, and a regional collocation manager. MFS alone has submitted more than 100 collocation requests and deals frequently with every one of these individuals. Bell Atlantic received 187 applications for collocation in 1996, and the local coordinators spent more than 15,000 hours in planning and design to meet those requests. In the first four months of 1997, they spent over 7,000 hours in implementing the 85 applications received so far this year. The number of anticipated labor hours for this function at the time of the filing (12-15 hours per application) was vastly understated and will be increased in the next tariff update.

WorldCom also asks why Attachment A shows three scenarios in calculating labor costs while Attachment D provides only two.[26] A closer look at Bell Atlantic's filing would have shown that the third scenario, which was the one used in the tariff, is a 50-50 blend of the two scenarios that are described in the filing.[27]

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[26] ***Id.*** at 10.

[27] ***See*** Direct Case, Att. A at 8, n.3 and Att. D at 2, 6

VI. Bell Atlantic's Cost Support is Fully Justified.

WorldCom vaguely asserts that Bell Atlantic's overall method of supporting its cost studies is unexplained.[28] However, Bell Atlantic's Direct Case explained in step-by-step detail the methodologies, assumptions, and cost assignments it used in developing the costs, a fact that WorldCom ignores.[29]

WorldCom also criticizes the Direct Case for excluding factors for inflation and productivity. As shown in the Direct Case, Bell Atlantic is updating its collocation studies at frequent intervals.[30] At the time of the most recent study, which was conducted during the period just before and immediately after enactment of the 1996 Act, the future growth of collocation demand and the form it would take were difficult to determine with any degree of precision, and trying to develop a five-year projection using inflation and productivity factors would not have produced results in which Bell Atlantic could have any confidence. Therefore, Bell Atlantic assumed a nominal 10% growth rate, in order to keep the projected costs low and ensure that rates were not overstated.[31]

Although WorldCom claims that "numerous" unspecified cost items are unexplained,[32] the six specific allegations it includes are each misplaced. First, WorldCom

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[28] WorldCom at 12.

[29] Direct Case at Att. D.

[30] Direct Case, Att. A at 3.

[31] As a subsequent check, Bell Atlantic re-ran the numbers using a 20% growth rate, still a conservative assumption, and applying inflation and productivity factors and found that the recurring costs were little changed from those filed.

[32] WorldCom at 12.

claims that the 10% collocation growth factor is unsupported.[33] Bell Atlantic based that factor on its own estimates of the possible increases in collocation requests, given the uncertainties of the impact of the new legislation, then took the most conservative of its estimates in order to keep the collocation tariff rates as low as possible. The actual demand has increased sharply since the filing, and this increase will be reflected in subsequent tariff filings.

Second, WorldCom claims that the two installation scenarios detailed in the Direct Case are not fully explained.[34] The Direct Case, however, explains that these scenarios are based upon the only two possible alternative assumptions for collocation, i.e., that a collocator leaves sufficient fiber in the cable vault that Bell Atlantic may extend its fiber to the collocation space, or that it does provide sufficient fiber, and Bell Atlantic must splice the collocator's fiber to existing Bell Atlantic fiber.[35]

Third, WorldCom claims that the assumption of 1.67 collocators per office is unexplained.[36] At the time of the study, there were 97 completed and pending requests for collocation in 58 Bell Atlantic central offices, for an average of 1.67. The actual average number of collocators per central office naturally changes over time as additional entrants request collocation and as the number of collocation offices expands. Bell Atlantic will use updated numbers in subsequent filings.

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[33] ***Id.***

[34] ***Id.***

[35] Direct Case, App. D at 2 (virtual) and 6 (physical).

[36] WorldCom at 12.

Fourth, WorldCom questions Bell Atlantic's statement that repeater prices were reduced because it used a new equipment vendor and asks how the vendor is selected.[37] Bell Atlantic used its standard network equipment procurement practices and procedures to select a repeater vendor. Price obviously is an important input in that selection process, and Bell Atlantic must also consider such factors as timely delivery, reliability of equipment, and quality installation when making a procurement decision. The repeater vendor that Bell Atlantic selected had one of the lowest prices, but it also could ensure timely delivery and had a track record of reliability.

Fifth, WorldCom compares figures in two columns of the Tariff Review Plan and asks why the monthly recurring rate per unit differs from the direct costs per unit.[38] The $94.16 monthly cost for power installation[39] that WorldCom cites was multiplied by the 1.2729 overhead loading factor applicable to this element to yield the $119.86 monthly rate.[40]

Finally, WorldCom claims that the assignment of "various costs" is arbitrary and will over-recover costs from collocators, but it gives only two examples to support this broad allegation.[41] First, it cites the Direct Case as saying that the Network Cable Rack[42] is dedicated to the collocator but cites a diagram included in the Direct Case that, it claims, shows that the

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[37] ***Id.*** at 13.

[38] ***Id.***

[39] TRP, "Physical Collocation Price Out, DS1 Power Installation Function," Col. GG.

[40] ***Id.***, Col. HH. This loading factor was shown in the tariff filing, Workpaper 5-7.

[41] WorldCom at 14-15.

[42] ***See*** Direct Case, Att. F, Item 12.

rack is shared among all users of the EDSX equipment.[43] A closer look at the diagram would have shown that the dedicated portion of the network cable rack runs part of the distance from the extended EDSX bay to the wideband digital cross-connect system. As Bell Atlantic specified in the Direct Case, the larger portion of the overall facility (called "Cable Support") is used by end users as well as collocators.[44] In fact, only 15% of the facility is dedicated to collocator use, and 25% of the remaining 85% is allocated to collocation. The reason the 15% is dedicated to collocation is that the collocation space is generally in a portion of the central office that is not used for any other purpose, and the cable rack will carry cable used only for collocation services. The part of the rack beyond the collocation space will carry cable used for other services as well, and, therefore, must be allocated to collocation and those other services.

Second, WorldCom contends that it is improper to charge one-time coaxial cable installation costs in recurring charges.[45] This, however, has been the historical practice for a multitude of services offered by regulated carriers. The engineered, furnished and installed ("E, F & I") investment is traditionally multiplied by the annual cost factors, then divided by twelve to produce a monthly cost. These derived monthly E, F & I costs are then multiplied by the overhead factor to produce a monthly rate. The Commission's prescribed TRP charts in this proceeding endorse this approach, because they provide columns for the E, F & I investments that are converted to monthly costs as part of the TRP process.

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[43] WorldCom at 14-15, citing Direct Case, Att. F.

[44] ***See*** Direct Case, Att. F, Item 16.

[45] WorldCom at 15.

In the case of virtual collocation, Bell Atlantic has no investment in collocator-provided equipment. Therefore, the cable installation and engineering costs are charged as nonrecurring rates, along with the installation costs for the collocator-provided equipment.

VII. Liability Provisions Are Fully Justified.

Both commenters assert that the liability provisions of its tariff are unreasonable, because they place greater liability on the collocators than on Bell Atlantic's employees, and because liability survives termination of the collocation arrangement.[46] Bell Atlantic fully justified these provisions in its Direct Case.[47] As shown therein, first, there is no justification for holding Bell Atlantic responsible when its employees are performing functions directed entirely by one collocator, the effect of which could be to harm another collocator. And, contrary to the allegations in the comments, the work in question is performed entirely under the clear direction of the collocator. Although Bell Atlantic's employees are instructed to avoid any acts that may harm another collocator or would jeopardize service to Bell Atlantic's customers, in some instances, the employees may not be aware of the incidental consequences of their work. When one collocator directs the employee to perform certain work and the adverse effect is not obvious, it is the one directing the employee, not the person performing it, that should be held responsible for consequent damages, as provided in the tariff.

[46] ***Id.*** at 15-17, MCI at 4-5.

[47] Direct Case, App. A at 23-24.

In addition, collocators are occupying sensitive space that was designed to provide local telephone service to the general public. None has allowed Bell Atlantic to occupy its office through a reciprocal collocation arrangement. The collocator should be held to a high duty of care to ensure that there is no impairment of the public telephone service that Bell Atlantic is obligated to provide its customers. Bell Atlantic does not disclaim liability for its own negligence and will compensate collocators for any damage that its negligence causes. However, given the problems that Bell Atlantic has already encountered, it must hold collocators to a high duty of care.[48]

Finally, as shown the Direct Case, the 18 month survivability clause is intended to protect Bell Atlantic in the event a collocator delays removing all equipment, including cages, from collocation space. It also protects against damage that may not become apparent for some time after termination.[49]

VIII. Bell Atlantic's Cost of Capital Is Fully Justified.

MCI wants Bell Atlantic to use an embedded cost of capital in a forward-looking cost study, claiming that Bell Atlantic will not raise new capital to provide collocation.[50] MCI

[48] For example, in one incident, a liquid contaminant that emanated from a competing access provider's space, through a conduit, to a Bell Atlantic space immediately below shorted out some Bell Atlantic electronic equipment. This act caused a number of customers served by that equipment to suffer outages until the problem could be corrected by replacing the optical terminating equipment. Laboratory tests identified the contaminant as urine and possibly tobacco juice. Bell Atlantic has filed a claim seeking reimbursement.

[49] *See* Direct Case, App. A at 23-24.

[50] MCI at 2-4.

has been a leading proponent of forward-looking cost studies in setting rates. In such a forward-looking cost study, there is no justification for applying embedded costs to any single element, and the Commission should deny MCI's self-serving request. Bell Atlantic will use some embedded plant to provide collocation service, but it appropriately does not include the embedded cost of such plant in the study, only forward-looking plant costs.[51] Whether or not Bell Atlantic will raise new capital is no more relevant than whether Bell Atlantic will use existing or new equipment in providing the service. A forward-looking study uses forward-looking costs for all elements, not only where it would benefit MCI.

IX. Use of Repeaters In Many Installation Is Justified.

Finally, MCI claims, without support, that repeaters should never be needed in collocation installations, because most collocation arrangements are only a "few feet" from LEC equipment, and repeaters are needed only for transmission of over 1,500 feet.[52] MCI is wrong on both counts. First, typically, collocation cages are more than a few feet away from Bell Atlantic's equipment and may often be on another floor. As Bell Atlantic showed in the Direct Case, distance is only one factor in determining where to locate such space.[53] Second, repeaters are required for DS3 service for runs that are far less than the 1,500 feet MCI claims in order to meet the line buildout requirements of the EDSX equipment. And Bell Atlantic uses the same

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[51] Use of embedded plant costs would likely increase the costs and the rates for collocation.

[52] MCI at 6.

[53] Direct Case, Att. A at 15-16.

standard for placing repeaters in its own installations as it does in collocation services. Although Bell Atlantic predicted at the time of the filing that repeaters would be needed in 15% of the physical collocation installation, the actual needs have been 40%. Subsequent tariff filings will reflect this actual experience.

X. Conclusion

Accordingly, the Commission should deny the objections of WorldCom and MCI and approve Bell Atlantic's collocation tariff.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of May, 1997, a copy of the foregoing "Rebuttal Case of Bell Atlantic" was sent by first class U.S. mail to the parties on the attached list.

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